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10/664,373	09/17/2003	Michael Charles Raufman	7792C	4564

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.
WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

KIDWELL, MICHELE M

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/664,373
Filing Date: September 17, 2003
Appellant(s): RAUFMAN ET AL.

**MAILED
JUN 14 2007
GROUP 3700**

Charles Matson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 26, 2007 appealing from the Office action mailed August 28, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 – 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Pozniak et al. (US 6,045,543).

As to claim 1, Pozniak et al. (hereinafter referred to as “Pozniak”) discloses a disposable absorbent article (8) comprising (a) a chassis, a garment-facing surface and a body-facing surface, the chassis adapted to extend from a back waist area of a wearer to a front waist area of a wearer with the body-facing surface overlying the crotch area of the wearer, the chassis including a first waist region, a second waist region and a crotch region (figure 1); (b) a pair of side panels extending substantially laterally outward from respective edge portions of the second waist region of the article (figure 5), the side panels each carrying a securement element for engagement with the garment-facing surface at the first waist region of the article for securing the article in a wearing position on the wearer (figure 5 – elements 36A and 36B); (c) a predetermined ornamental visual image consisting of a first image element and a second image element, wherein the first image element is joined to one of the pair of side panels and the second image element is joined to another of the pair of side panels, wherein when the side panels are secured to the first waist region the first and second image elements complete the predetermined ornamental visual image, and wherein the predetermined ornamental visual image is visible when the side panels are secured to the first waist region as set forth in col. 3, lines 8 – 19 and figures 2 – 5.

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With reference to claim 2, Pozniak discloses an article wherein the securement elements include fastener tabs that have a predetermined ornamental shape as set forth in figure 5.

(10) Response to Argument

With respect to the applicant's argument that Pozniak does not teach or suggest a predetermined visual image consisting of a first image element and a second image element that complete the visual image when the side panels are secured to the first waist region, the examiner disagrees. Pozniak provides a first image element, for example 48A as shown in figures 2 and 4, joined to one of the pair of side panels (left side panel). Pozniak also shows a second image element, 48A as shown in figures 2 and 4 joined to the another of the pair of side panels (right side panel). When the two side panels are secured to the first waist region the first and second image elements complete the predetermined ornamental visual image (i.e., the entire line across the front of the article) as shown in figure 4. The arguments filed January 26, 2007 state that the Office Action mischaracterizes the indicia lines of three different areas as first and second image elements, but this is not the case. The examiner does not equate the middle to either of the first and/or second image element. The middle is relied on to show the completion of the predetermined ornamental visual image once the first and second image elements have been secured to the first waist region. If one of ordinary skill in the art is able to "at once envisage" the specific embodiment within the generic teaching, the embodiment is anticipated. MPEP 2131.02.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Michele Kidwell

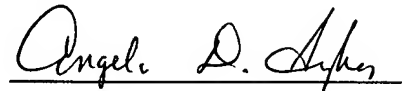
Conferees:



Tatyana Zalukaeva

Supervisory Patent Examiner

Art Unit 3761



Angela Sykes

Supervisory Patent Examiner

Art Unit 3762